

Appl. No. 10/740,261  
Docket No. 9475  
Amdt. dated June 17, 2009  
Reply to Office Action mailed on March 30, 2009  
Customer No. 27752

## REMARKS

### Claim Status

Applicants acknowledge the Advisory Action mailed on June 5, 2009. In the Advisory Action, the Examiner asserts that U.S. Patent No. 2,113,431 to Milliken teaches a fibrous structure that comprises apertures. The Examiner asserts that the apertures result in Milliken's structure exhibiting a pattern of regions of different basis weight; namely defined by regions with material and regions void of material.

Claim 1 has been amended to define the claimed invention with greater specificity by reciting that the layer comprising a mixture of short cellulosic fibers and synthetic fibers is disposed on less than the entire layer comprising randomly distributed softwood fibers in a non-random pattern of regions of different basis weight. Support for this amendment is found in the Specification and in the Drawings, especially Fig. 10.

Claims 1-5, 8-15, and 18-20 are pending in the present application. No additional claims fee is believed to be due.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,538,595 in view of any one U.S. Patent No. 2,113, 431, U.S. Patent No. 3,304,180, U.S. Patent No. 5,245,025 or U.S. Patent No. 5,328,565

Claims 1, 5, and 18-20 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over U.S. Patent No. 5,538,595 to Trokhan, et al. ("Trokhan I") in view of any one U.S. Patent No. 2,113, 431 to Milliken, U.S. Patent No. 3,304,180 to Greiner, et al. ("Greiner"), U.S. Patent No. 5,245,025 to Trokhan, et al. ("Trokhan II"), or U.S. Patent No. 5,328,565 to Rasch, et al. ("Rasch"). The Examiner asserts that Trokhan I discloses a fibrous tissue structure comprising at least two layers wherein at least one of the layers of the structure includes randomly distributed long cellulosic fibers, at least one of the layers of the structure includes short cellulosic fibers, and that synthetic fibers may be used in combination with the cellulosic fibers. The

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Examiner further asserts that Trokhan I discloses that the layer comprising the short cellulosic fibers is disposed on the layer comprising the randomly distributed long cellulosic fibers. However, the Examiner recognizes that Trokhan I fails to teach that the short cellulosic fiber layer is disposed in a non-random pattern of regions of different basis weight on the long cellulosic fiber layer.

The Examiner attempts to overcome the deficiencies of Trokhan I by combining the teachings of Milliken, Greiner, Trokhan II and/or Rasch with the teachings of Trokhan I. The Examiner asserts that Milliken, Greiner, Trokhan II and Rasch each disclose that it is known in the tissue paper art to dispose an outer layer in a non-random pattern of regions of different basis weight motivated by the desire to increase performance, increase fluid permeability, and/or improve appearance. The Examiner concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the short cellulosic fiber layer of Trokhan I in a non-random pattern of regions of different basis weight, as taught by Milliken, Greiner, Trokhan II, and Rasch, motivated by a desire to increase performance, increase fluid permeability, and/or improve appearance.

Applicants respectfully disagree with the Examiner's conclusion. Applicants respectfully submit that Milliken fails to teach a structure that has an outer layer. In fact, Milliken fails to teach a layered structure. Therefore, Applicants do not understand where the Examiner is finding support in Milliken for the Examiner's position that Milliken teaches disposing an outer layer in a non-random pattern of regions of different basis weight.

Applicants respectfully submit that Greiner fails to teach a structure that has an outer layer. In fact, Greiner fails to teach a layered structure. The most Greiner teaches is a two-ply structure as shown in Greiner's Fig. 11, not a layered structure. Therefore, Applicants do not understand where the Examiner is finding support in Greiner for the Examiner's position that Greiner teaches disposing an outer layer in a non-random pattern of regions of different basis weight.

Applicants respectfully submit that Trokhan II fails to teach a structure that has an outer layer. In fact, Trokhan II fails to teach a layered structure. Applicants submit that the most Trokhan II teaches with respect to the claimed invention is structure that

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comprises regions of different basis weight, not a layered structure where the outer layer is disposed in a non-random pattern of regions of different basis weight. Therefore, Applicants do not understand where the Examiner is finding support in Trokhan II for the Examiner's position that Trokhan II teaches disposing an outer layer in a non-random pattern of regions of different basis weight.

Applicants respectfully submit that Rasch fails to teach a structure that has an outer layer. In fact, Rasch fails to teach a layered structure. Therefore, Applicants do not understand where the Examiner is finding support in Rasch for the Examiner's position that Rasch teaches disposing an outer layer in a non-random pattern of regions of different basis weight.

In light of the foregoing, Applicants respectfully submit that Trokhan I in view of Milliken, Greiner, Trokhan II, and/or Rasch fails to teach each and every element of Claim 1, as amended, because Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch fails to teach a layered fibrous structure as claimed wherein a layer comprising a mixture of short cellulosic fibers and synthetic fibers is disposed on less than an entire layer comprising randomly distributed softwood fibers in a non-random pattern of regions of different basis weight. Therefore, Applicants submit that Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03. Further, Applicants submit that Claims 5 and 18-20, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,538,595 in view of any one U.S. Patent No. 2,113, 431, U.S. Patent No. 3,304,180, U.S. Patent No. 5,245,025 or U.S. Patent No. 5,328,565, and further in view of U.S. Patent No. 6,548,731

Claims 2 and 3 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, and Rasch, all discussed above, and further in view of U.S. Patent No. 6,548,731 to Mizutani, et al. ("Mizutani").

Applicants respectfully submit that Claims 2 and 3, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of Milliken,

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Greiner, Trokhan II, and Rasch and further in view of Mizutani for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,538,595 in view of any one U.S. Patent No. 2,113, 431, U.S. Patent No. 3,304,180, U.S. Patent No. 5,245,025 or U.S. Patent No. 5,328,565, and further in view of WO 93/14267

Claims 4, 8-12, and 15 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, and Rasch, all discussed above, and further in view of U.S. Patent No. WO 93/14267 to Manning (“Manning”).

Applicants respectfully submit that Claims 4, 8-12, and 15, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch and further in view of Manning for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,538,595 in view of any one U.S. Patent No. 2,113, 431, U.S. Patent No. 3,304,180, U.S. Patent No. 5,245,025 or U.S. Patent No. 5,328,565, and further in view of U.S. Patent No. 4,202,959

Claim 9 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, and Rasch, all discussed above, and further in view of U.S. Patent No. U.S. Patent No. 4,202,959 to Henbest, et al. (“Henbest”).

Applicants respectfully submit that Claim 9, which ultimately depends from Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch and further in view of Henbest for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03.

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Claims 13 and 14 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, and Rasch, all discussed above, and further in view of any one of U.S. Patent No. 5,045,499 to Vinson (“Vinson”) or U.S. Patent No. 5,409,572 to Kershaw, et al. (“Kershaw”).

Applicants respectfully submit that Claims 13 and 14, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch and further in view of Vinson and/or Kershaw for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,538,595 in view of any one of U.S Patent Nos. 2,113,431, 3.034,180, 5,245,025, or 5,328,565

Claims 1, 5, 6, and 18-20 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over U.S. Patent No. 5,538,595 to Trokhan, et al. (“Trokhan I”) in view of any one of U.S Patent Nos. 2,113,431 to Milliken (“Milliken”), 3.034,180 to Greiner, et al. (“Greiner”), 5,245,025 to Trokhan, et al. (“Trokhan II”), or 5,328,565 to Rasch, et al. (“Rasch”). The Examiner asserts that Trokhan I discloses a fibrous structure comprising at least two layers wherein at least one of the layers of the structure includes long cellulosic fibers that are randomly distributed, at least one of the layers of the structure includes short cellulosic fibers, and that synthetic fibers may be used in combination with the cellulosic fibers. The Examiner recognizes that Trokhan I fails to teach that the layer that comprises short cellulosic fibers is disposed in a non-random pattern of regions of different basis weight on the layer that comprises the long cellulosic fibers. The Examiner attempts to combine one or more of the teachings of Milliken, Greiner, Trokhan II and Rasch to teach that it is known in the

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tissue paper art to dispose an outer layer in a non-random pattern of regions of different basis weight.

Applicants respectfully submit that Trokhan I in view of one or more of Milliken, Greiner, Trokhan II and Rasch fails to teach each and every element of Claim 1, the independent claim, as amended, because all of the references fail to teach a fibrous structure that comprises at least two layers wherein at least one of the layers comprises randomly distributed softwood fibers and another layer that comprises short cellulosic fibers and synthetic fibers and that is disposed on the first layer in a non-random pattern of regions of different basis weight.

Applicants submit that Trokhan I fails to teach a fibrous structure comprising a layer that comprises short cellulosic fibers that is disposed in a non-random pattern of regions of different basis weight on a layer that comprises softwood fibers.

Applicants submit that Milliken fails to teach a layered fibrous structure.

Applicants submit that Greiner fails to teach a fibrous structure that comprises a layer of randomly distributed softwood fibers.

Applicants submit that Trokhan II fails to teach a fibrous structure that comprises a layer of randomly distributed softwood fibers. Applicants directs that Examiner's attention to Col. 6, lines 53-60 of Trokhan II for support of Applicants' position.

Applicants submit that Rasch fails to teach a layered fibrous structure.

In light of the foregoing, Applicants respectfully submit Claim 1, as amended, is not rendered obvious over Trokhan I in view of one or more of Milliken, Greiner, Trokhan II and Rasch because Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch fails to teach a layered fibrous structure as claimed wherein a layer comprising a mixture of short cellulosic fibers and synthetic fibers is disposed on less than an entire layer comprising randomly distributed softwood fibers in a non-random pattern of regions of different basis weight. Therefore, Applicants submit that Claim 1, as amended, is not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03. Further, Applicants submit that Claims 5, 6, and 18-20, which ultimately

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depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of Milliken, Greiner, Trokhan II, and Rasch. MPEP 2143.03.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,538,595 in view of any one of  
U.S Patent Nos. 2,113,431, 3.034,180, 5,245,025, or 5,328,565  
and further in view of U.S. Patent No. 6,548,731

Claims 2 and 3 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, all discussed above, and further in view of U.S. Patent No. 6,548,731 to Mizutani, et al. (“Mizutani”). The Examiner recognizes that Trokhan I, Milliken, Greiner, Trokhan II and Rasch all fail to teach a specific fiber length ratio between the synthetic fibers and the short fibers. The Examiner asserts that Mizutani teaches that it is known in the absorbent product art to use cellulosic fibers that are shorter than synthetic fibers.

Applicants respectfully submit that Claims 2 and 3, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, and further in view of Mizutani for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch. MPEP 2143.03.

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Applicants respectfully submit that Claims 4, 8-12 and 15, as amended, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, and further in view of

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Manning for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch. MPEP 2143.03.

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Claim 9 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, all discussed above, and further in view of U.S. Patent No. 4,202,959 to Henbest, et al. (“Henbest”). The Examiner recognizes that Trokhan I, Milliken, Greiner, Trokhan II and Rasch all fail to teach the claimed fiber diameter and length of the synthetic fibers.

Applicants respectfully submit that Claim 9, which ultimately depends from Claim 1, as amended, is not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, and further in view of Henbest for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch. MPEP 2143.03.

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Claims 13 and 14 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, all discussed above, and further in view of U.S. Patent Nos. 5,405,499 to Vinson (“Vinson”) or 5,409,572 to Kershaw, et al. (“Kershaw”). The Examiner recognizes that Trokhan I, Milliken, Greiner, Trokhan II and Rasch all fail to teach the claimed coarseness values.

Applicants respectfully submit that Claims 13 and 14, which ultimately depend from Claim 1, as amended, are not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch, and further in view of Vinson or Kershaw for the same reasons that Claim 1, as amended, is not rendered obvious over Trokhan I in view of any one of Milliken, Greiner, Trokhan II, or Rasch. MPEP 2143.03.

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Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

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